IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

Crl.L.P..No. 389 of 2006()

CC.166/2005 of J.M.F.C.-IV,NEYYATTINKARA

PETITIONER/COMPLAINANT

VADAKKEVILA HANDLOOM WEAVERS
CO-OPERATIVE SOCIETY LTD. NO.3403,
BALARAMAPURAM, REPRESENTED BY ITS SECRETARY,
SHIJU.

BY ADV. SRI.SASTHAMANGALAM S. AJITHKUMAR
SRI.K.R.SACHIDANANTHAN
SRI.PRABHU VIJAYAKUMAR
SRI.RENJITH B.MARAR

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. K.SREEKANTAN NAIR,
KRISHNA HANDLOOMS, POOVATHOOR,
MANCHAVILAKOM P.O., NEYYATTINKARA, RESIDING AT
USHUS, POOVATHOOR, MANCHAVILAKOM P.O.,
NEYYATTINKARA.

BY P.P.SRI.PUZHAKKARA MUHAMMED FOR R1

THIS CRIMINAL LEAVE PETITION HAVING BEEN FINALLY HEARD ON 19/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K. Thankappan, J.

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Crl.L.P. No. 389 of 2006

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Dated this the 19th day of June, 2007

O R D E R

This is a petition to special leave to appeal filed by the complainant in C.C.No.166/2005 on the file of the Judicial Magistrate of the First Class -IV, Neyyattinkara. Petitioner is the complainant. In the complaint it is stated that the 2nd respondent issued Exts.P2 and P3 cheques to the petitioner society towards repayment of amount due to the petitioner. When the cheques were presented for encashment, they were dishonoured with the endorsement "exceeds arrangements". After complying the statutory formalities the complaint was filed. To prove the case against the 2nd respondent, PW1 was examined and Exts.P1 to P8 were marked. After closing the evidence the 2nd respondent was questioned under section 313 Cr.P.C., he denied the transaction. After considering the entire evidence the trial court found that there was no sufficient evidence to come to a conclusion that the 2nd respondent had issued Exts.P2 and P3 cheques in discharge of a legally enforceable debt or liability. The only evidence adduced by the petitioner is the evidence of PW1. The petitioner had not taken any steps to obtain the bank records to

prove that Exts.P2 and P3 cheques were issued from the account maintained by the 2nd respondent.

2. After considering the arguments of the learned counsel and after perusing the records made available to this Court, this Court is of the view that the findings entered by the trial court are on evidence and they require any interference by this Court. Hence, leave to appeal is rejected.

K. Thankappan,
Judge.

mn.

K.Thankappan,J.

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Crl.l.P.No. /200

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ORDER

-6-2007